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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S) : Donald L. Evans
SERIAL NO. : 10/588,417
FILED : April 7, 2008
FOR : Novel Teleost Derived Antimicrobial Polypeptides

GROUP ART UNIT : 1646
Examiner : Michael D. Pak

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**Election of Invention in Response
to Restriction Requirement**

SIR:

In response to the Examiner's correspondence dated July 11, 2011, pursuant to the Examiner's restriction requirement in the above-referenced patent application, Applicants provisionally elect *with traverse* to prosecute the invention of group I, namely claims 1, 7, 8 and 9 (note that claim 3 was cancelled pursuant to the filing of a preliminary amendment), which are drawn to a polypeptide, library, kit, or pharmaceutical composition as claimed. In addition, Applicants elect to prosecute *with traverse*, a species of antimicrobial peptide which is SEQ ID No: 3 or a fragment thereof as claimed. Claims 1, 7, 8 and 9 are readable on the elected species. Notwithstanding Applicants' election, Applicants respectfully request the Examiner withdraw the requirement for restriction.

Applicants respectfully traverses the Examiner's requirement for restriction. Applicants respectfully request the Examiner reconsider the restriction requirement. Applicants respectfully submit that prosecution of all of the originally filed claims should not be restricted to the elected invention, for the reasons which are set forth hereinbelow. Alternatively, the Examiner should carefully consider allowing all of the polypeptides which are presented in claim 1 to be examined, given that these polypeptides, although distinguishable, are closely related.

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According to M.P.E.P. §803, restriction by the Examiner of patentably distinct inventions is proper if the claimed inventions are independent and a *serious burden* would be placed on the Examiner if restriction was not required. Applicants respectfully submit that the presentation of the originally filed claims would not place such a serious burden on the Examiner as to require restriction. All of the originally filed claims are related, though patentably distinct chemical compounds, pharmaceutical compositions and methods of using the compounds and/or compositions.

Although the claimed invention groups are generally patentably distinct from each other, Applicant respectfully submits that any search the Examiner would need to conduct in examining the instant application would not be unduly burdensome. Moreover, the examination of all of the originally filed claims in the instant application would not place such a serious burden on the Examiner as to require restriction.

Applicants understand the general policy considerations for the Patent Office's requirement for restriction in certain instances. In this instance, however, those considerations do not weigh in favor of restricting the inventions here. In determining the appropriateness of restriction, one must also consider the countervailing consideration that, in each instance, Applicant wishes the Patent Office to examine his or her application with a certain degree of "administrative efficiency" and wishes to have patent claims issue which reflect the breadth of his or her invention.

Applicants respectfully submit that the originally filed claims are sufficiently narrow to allow the Examiner to determine patentability without being subjected to the serious burden referred to in M.P.E.P. §803. This is especially true given that virtually all of the polypeptides which are set forth in claim 1 relate to SEQ ID No. 3. Consequently, Applicant respectfully requests that the Examiner withdraw the restriction requirement in its entirety and at least with

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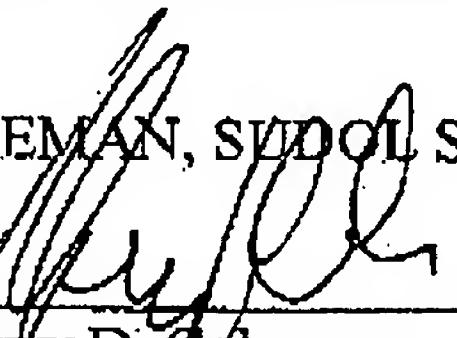
respect to the polypeptides which are set forth in claim 1 hereof.

The Examiner is cordially requested to call the undersigned attorney if the Examiner believes that a telephonic discussion may materially advance the prosecution of the instant application in any way.

No fee is due for the presentation of this response. If any fee is required, or any overpayment has been made previously, please charge/credit deposit account 04-0838.

Respectfully submitted,

COLEMAN, SUDOL SAPONE, P.C.

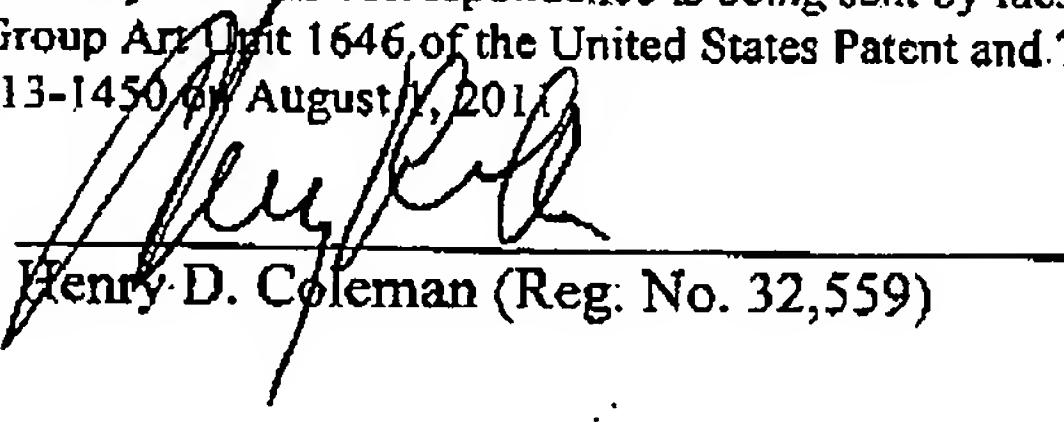
By: 

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Dated: August 1, 2011

Certificate of Facsimile

I hereby certify that this correspondence is being sent by facsimile transmission to Examiner Michael D. Pak in Group Art Unit 1646 of the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450 on August 1, 2011.


Henry D. Coleman (Reg. No. 32,559)

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